

Message Text

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ORIGIN EB-07

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FM SECSTATE WASHDC

TO AMEMBASSY SAN JOSE

INFO AMEMBASSY MEXICO

AMEMBASSY BOGOTA

AMEMBASSY PANAMA

AMEMBASSY KINGSTON

AMEMBASSY CARACAS

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E.O. 11652:N/A

TAGS:EWWT, ETRD, CS, US

SUBJECT: COSTA RICAN CARGO RESERVATION LAW FAVORING NAMUCAR

REF: SAN JOSE 5297

1. BASED ON INFORMATION PROVIDED REFTEL AND TEXT OF GOCR CARGO RESERVATION LAW AND NAMUCAR FINAL ACT, IT APPEARS GOCR DECREE MAY RESULT IN FUTURE DETRIMENTAL EFFECT ON U.S. TRADE AND SHIPPING INTERESTS IN CARIBBEAN. GOCR LAW, IN ITSELF, WOULD AFFECT ONLY A SMALL AMOUNT OF TRADE WHICH, UNDER OTHER CIRCUMSTANCES, MIGHT BE CONSIDERED INCONSEQUENTIAL. HOWEVER, IT IS OF SPECIAL CONCERN BECAUSE U.S. TRADE AND SHIPPING INTERESTS IN AREA COULD BE INJURED IF OTHER NAMUCAR COUNTRIES ADOPTED SIMILAR MEASURES.

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2. EMBASSY IS REQUESTED TO CONTACT APPROPRIATE GOCR AUTHORITIES TO OBTAIN FURTHER INFORMATION ABOUT SCOPE AND APPLICATION OF NEW CARGO RESERVATION DECREE, AND NAMUCAR OPERATIONS. SPECIFICALLY, DEPARTMENT WOULD LIKE TO KNOW:

A. IF GOCR CONFIRMS NAMUCAR OFFICIAL'S INTERPRETATION REPORTED REFTEL THAT 80 PER CENT RESERVATION WILL ONLY APPLY TO 40 PER CENT OF COSTA RICAN CARGO ON NAMUCAR ROUTES.

B) IF NAMUCAR ROUTINGS WILL SERVE ONLY MEMBER COUNTRIES, OR IF SHIPS WILL CALL AT NON-MEMBER COUNTRY PORTS.

C) WHETHER GOCR ANTICIPATES THAT ALL NAMUCAR COUNTRIES WILL RESERVE CARGO IN FAVOR OF THE REGIONAL LINE.

D) WHEN NAMUCAR SERVICE IS SCHEDULED TO BE INITIATED, AND ON WHAT ROUTES.

3. EMBASSY SHOULD INFORM GOCR THAT WHILE USG RECOGNIZES THE DESIRE OF COUNTRIES TO EXPAND THEIR FOREIGN TRADE AND ASSIST NATIONAL SHIPPING LINES, WE MAINTAIN THAT CARGO RESERVATION SHOULD NOT BE SO EXTENSIVE OR ARBITRARY THAT REASONABLE SERVICES, INCLUDING THE WAY-PORT TRADES, OPERATED BY TRADING PARTNERS AND TRADITIONAL CROSS-TRADERS, CANNOT BE MAINTAINED ON A SOUND ECONOMIC BASIS. GOCR SHOULD BE AWARE THAT ACTIONS HARMFUL OR DISRUPTIVE TO U.S. TRADE AND SHIPPING INTERESTS COULD LEAD TO ACTIONS UNDER TWO U.S. LAWS TO PROTECT THESE INTERESTS:

A) UNDER SECTION 19, MERCHANT MARINE ACT, 1920, THE FEDERAL MARITIME COMMISSION, AN INDEPENDENT REGULATORY AGENCY, IS REQUIRED TO CONSIDER INVOKING COUNTERVAILING MEASURES TO MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE U.S. FOREIGN TRADE (SEE STATE A-8430 OF NOV. 8, 1974 FOR BACKGROUND).

B) SECTION 301 OF THE TRADE ACT OF 1974 ALLOWS THE PRESIDENT TO RETALIATE AGAINST COUNTRIES WHICH PLACE UNJUSTIFIABLE OR UNREASONABLE BURDENS ON U.S. COMMERCE, LIMITED OFFICIAL USE

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INCLUDING MERCHANT SHIPPING.

EMBASSY SHOULD INDICATE USG HOPE THAT IMPLEMENTATION OF NEW DECREE WILL NOT RESULT IN CONDITIONS WHICH DISCRIMINATE AGAINST U.S. TRADE AND SHIPPING INTERESTS.

4. RE DISCUSSION PARA 2, REFTEL, ON "40-40-20 UNCTAD CARGO RESERVATION PRINCIPLE", EMBASSY IS REMINDED THAT

USG VOTED AGAINST UN CONVENTION ON A CODE OF CONDUCT FOR LINER CONFERENCES (SEE STATE A-5009 OF JUNE 19, 1974 FOR BACKGROUND) AND CONTINUES TO OPPOSE THE CONVENTION IN ITS PRESENT FORM. AT THIS TIME, ONLY 11 COUNTRIES REPRESENTING 1.7 PER CENT OF WORLD LINER TONNAGE HAVE RATIFIED THE CONVENTION. AT LEAST 24 COUNTRIES REPRESENTING 25 PER CENT OF WORLD LINER TONNAGE MUST RATIFY THE CONVENTION FOR IT TO ENTER INTO FORCE AMONG CONTRACTING PARTIES. EVEN IF THE CONVENTION WERE TO COME INTO EFFECT AND ALL NAMUCAR COUNTRIES WERE CONTRACTING PARTIES THERETO, THIS WOULD NOT AFFECT LONG-STANDING U.S. POSITION OPPOSING

GOVERNMENT-IMPOSED COMMERCIAL CARGO RESERVATION; NOR WOULD IT PRECLUDE THE POSSIBILITY OF U.S. COUNTERVAILING OR RETALIATORY ACTION IF SUCH DAMAGE WERE TO OCCUR. KISSINGER

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